



Application No. 02-102130

PRINT NAME OF SUCCESSFUL BIDDER(S) (This will be the name(s) to appear on the deed unless otherwise instructed in writing)

DESCRIPTION OF LAND: See attached Memorandum of Auction of Real Estate.

SUCCESSFUL BID: \$_____

\$ _____

\$ _____

\$_____

OVER

DISCLAIMER

State does not represent and specifically disclaims any warranties regarding the acreage, timber present, or value of the property. Purchaser shall not rely on any representation by state including those relating to acreage estimates, volume quality or grade of timber, appraisal information or pre-bid documentation. Purchaser has had an opportunity to seek legal counsel on the legal effect of this sale.

WITNESS this ____ day of _____, 2024.

I hereby agree to the terms set forth in this report and attached memorandum of auction.

PURCHASER/Agent

PURCHASER/Agent

I hereby certify that the above and foregoing is a full, true and correct report of the auction of lands described above, containing description, price and other information, held on the ____ day of _____, _____, beginning at ____ a.m. Purchaser's bid has been accepted as the successful bid subject to confirmation as provided by RCW 79.11.175.

AUCTIONEER

Name



WASHINGTON STATE DEPT OF
**NATURAL
RESOURCES**

MEMORANDUM OF AUCTION OF REAL ESTATE

THIS AGREEMENT is made as of the date set forth in the Report of Auction by and between the State of Washington, acting by and through the Department of Natural Resources ("State") and the successful bidder ("Purchaser").

WHEREAS, State is the owner of certain real property known as Kapowsin located in Pierce County, Washington; and

WHEREAS, Purchaser was the successful bidder at the auction held this date;

NOW, THEREFORE, in exchange for the mutual promises and covenants herein contained, and other good and valuable consideration, the mutual receipt and sufficiency of which is hereby acknowledged by Purchaser and State, it is agreed as follows:

SECTION 1 PROPERTY

1.1 Property to be Sold. State has sold and will convey to Purchaser, and Purchaser shall accept from State, subject to the terms of this Agreement, that certain real property located in Pierce County, Washington, the legal description of which is set forth on Exhibit A, together with all easements, rights-of-way and other rights appurtenant to said real property. The foregoing property and rights and interests described above are collectively referred to herein as the "Property."

1.2 Reservation. This sale is subject to the reservation of oils, gases, and minerals as prescribed in RCW 79.11.210.

SECTION 2 PAYMENT

2.1 Purchase Price. The purchaser price ("Purchase Price") is the successful bid amount set forth in the Report of Auction.

- (a) Bid Deposit. Purchaser has made a bid deposit or furnished a bid bond guarantee in the amount set forth in the Report of Auction. If a bid bond guarantee was substituted for a bid deposit, Purchaser shall pay the cash equivalent of the bid guarantee amount to the State within ten (10) days of the auction date. In the event Purchaser fails, without legal excuse, to complete the purchase of the Property, the deposit made by Purchaser shall be forfeited to State in an amount not to exceed

five percent (5%) of the Purchase Price as the sole and exclusive remedy available to State for such failure.

- (b) **Balance.** The balance of the Purchase Price (Balance) and all costs, assessments, prorations, charges or fees due under this Agreement shall be paid in cash no later than forty five (45) days after the date of the agreement.

2.2. No Interest. The bid deposit and balance paid shall be held by the State Treasurer without interest until Closing.

SECTION 3 CLOSING

3.1 Date. The "Closing Date," "Closing," or "Date of Closing," as those terms are used herein, shall mean the date upon which all documents necessary to complete the sale are properly executed, including issuance of a quitclaim deed from the Governor's Office in accordance with RCW 79.02.270, and all terms of the sale have been met. As required by RCW 79.02.270, the Commissioner of Public Lands must certify to the Governor that the Purchase Price has been fully paid before a quitclaim deed can be executed.

3.2 Place. Closing shall be carried out at the Olympia office of the Department of Natural Resources. Purchaser acknowledges that State is acting as an interested party in preparing documentation for and closing this sale; State is not acting as an escrow. Purchaser should consult an attorney regarding the legal effects of this transaction.

SECTION 4 CONVEYANCE, TITLE INSURANCE AND POSSESSION

4.1 Possession. Purchaser shall be entitled to possession of the Property on the Closing Date.

4.2 Form of Deed. State shall convey title to the Property to Purchaser by quitclaim deed executed by the Governor of the State of Washington. Said deed shall be in the same form and format as Exhibit B attached hereto and incorporated by this reference herein.

4.3 Title Insurance. State will not furnish a policy of title insurance at Closing. Purchaser must perform its due diligence with respect to title matters prior to the auction date. Satisfactory title shall not be a condition of closing.

SECTION 5 DESTRUCTION OR CONDEMNATION

State shall bear the risk of loss until Closing. If on or before the Closing Date either the Property is materially damaged, or condemnation proceedings are commenced with respect to the Property, Purchaser shall elect either to terminate this Agreement or to purchase the Property. Purchaser must give written notice of such election to State within fifteen (15) days of Purchaser's knowledge of such damage or condemnation. Failure to give State notice of Purchaser's election to terminate shall be deemed an election to purchase. If Purchaser elects to terminate this Agreement, any deposit shall be returned to Purchaser, and all rights and obligations of Purchaser and State shall terminate. If Purchaser elects to purchase the Property, Purchaser shall be entitled to the insurance proceeds, if any, or to the condemnation award either of which shall be without adjustment to the Purchase

Price. Damage shall be deemed "material" if it cannot be repaired or replaced within ninety (90) days, or it represents more than ten percent (10%) of the Purchase Price.

SECTION 6 CONDITION OF THE PROPERTY

6.1 As Is. The Property is sold "AS IS, WHERE IS." State does not make and specifically disclaims any warranties, express or implied, including any warranty of merchantability or fitness for a particular purpose about the Property, including but not limited to any improvements located thereon. No employee or agent of State is authorized to make any warranty or representation to the contrary. The foregoing specifically disclaims warranties with respect to the existence or nonexistence of any pollutants, contaminants, or hazardous waste or claims based thereon arising out of the actual or threatened discharge, disposal, seepage, migration, or escape of such substances at, from, or into the Property.

6.2 Release/Indemnity. Purchaser hereby fully releases State from any and all liability to Purchasers arising out of or related to the condition of the Property prior to, at, or after Closing, including but not limited to the deposit or release of hazardous or toxic wastes or material, pollutants, and the following known or suspected defects: None. It is the intent of the parties that this constitutes a full and final release of any and all claims concerning any substance including, but not limited to, hazardous substances. This release extends to and includes any action for contribution for any environmental remedial action. Purchaser agrees to indemnify, defend with counsel acceptable to State, and release State with respect to, but not limited to any claims, damages, liabilities, penalties (civil or criminal), and any other costs, including attorneys' fees and costs imposed or related to any hazardous, toxic, dangerous, or harmful substances on the Property deposited or released after Closing.

6.3 Seller's Disclosure Statement. If and to the extent that the Property is used for residential purposes or is zoned for residential use, the Purchaser hereby waives the right to receive a seller's disclosure statement pursuant to RCW Chapter 64.06. Notwithstanding the foregoing, to the extent that State has actual knowledge of conditions on the Property that would result in a "yes" answer to any of the questions in the Environmental section of the statutory disclosure form, State shall provide a completed copy of that section of the disclosure statement to Applicant.

6.4 Notice of Possible Proximity to Farming Operations. This notice is to inform Purchaser that the Property being purchased may lie in close proximity to a farm. The operation of a farm involves usual and customary agricultural practices, which are protected under RCW 7.48.305, the Washington right to farm act.

SECTION 7 ASSESSMENTS

Purchaser shall buy the Property subject to any assessment remaining unpaid after the auction date.

SECTION 8 STATE CONTINGENCY

State's obligations are contingent upon the following:

- (a) confirmation of sale by the department as provided under RCW 79.11.175;

- (b) payment of all sums specified under this Agreement; and
- (c) performance on or prior to Closing of all other acts required of Purchaser under this Agreement.

SECTION 9 CLOSING AND CLOSING COSTS

Prior to or at Closing the parties shall do the following:

9.1 State.

- (a) issue a duly executed quitclaim deed in accordance with RCW 79.02.270 conveying title to the Property within a reasonable time after confirmation of receipt of the Purchase Price by the State Treasury;
- (b) sign a Real Estate Excise Tax Affidavit;
- (c) assign state's rights as landlord to any lease(s) that may exist on the Property;
- (d) provide any other documents necessary to consummate this agreement;
- (e) pay prorations to the extent required and determinable;
- (f) file the executed deed with the County Auditor in the county where the Property is located; and
- (g) send the original recorded deed to Purchaser following its return from the County Auditor.

9.2 Purchaser.

- (a) pay the Purchase Price into the State Treasury as set forth in Subsection 2.1;
- (b) sign a Real Estate Excise Tax Affidavit;
- (c) assume State's obligations under any lease(s) that may exist on the Property;
- (d) provide any other documents necessary to consummate this Agreement;
- (e) pay all administrative costs, other sums and prorations to the extent required under this Agreement and determinable; and
- (f) pay the cost of recording the deed and the county processing fee for filing the Real Estate Excise Tax Affidavit.

9.3 Prorations. All rents and other income, if any, and water, sewer, utility and maintenance charges and any other expenses (excluding local improvement assessment as provided under Section 7) with respect to the operation of the Property levied against the Property shall be prorated between Purchaser and State as of the Closing Date. To the extent information is then available,

such prorations shall be calculated and paid as of Closing. Such prorations shall be adjusted and completed after the Closing Date, if necessary, as and when complete information becomes available, and State and Purchaser agree to cooperate and use their best efforts to complete such prorations not later than sixty (60) days after the Closing Date. No insurance proration shall be made.

SECTION 10 SURVIVAL

The obligations not satisfied at Closing or intended to continue beyond Closing shall not be deemed to have merged in the deed.

SECTION 11 REAL ESTATE COMMISSION

Purchaser shall pay any real estate commission payable in connection with this transaction. Any real estate agent or broker acting in this transaction shall be deemed to be the sole agent of Purchaser.

SECTION 12 NOTICES

All notices required or permitted to be given hereunder shall be in writing and shall be deemed given upon personal service or deposit in the United States first class mail, postage prepaid, and addressed as follows:

To Purchaser:	See Report of Auction
To State:	Department of Natural Resources Strategic Planning Office Attn: Matthew Matulovich PO Box 47014 Olympia, WA 98504-7014

The foregoing addresses may be changed by written notice.

SECTION 13 MISCELLANEOUS

13.1 Entire Agreement. This Agreement constitutes the entire Agreement between the parties. No prior and contemporaneous negotiations, understandings and agreements, whether oral or written, are merged in these documents and the rights and obligations of the parties shall be as set forth herein.

13.2 Binding Nature; Assignment of Rights. All rights and obligations arising out of this Agreement shall inure to the benefit of and be binding upon the respective successors, heirs, assigns, administrators, executors and marital communities, if any, of the parties hereto. However, this Agreement shall not be assignable by Purchaser without the prior written consent and acceptance by State, which shall be at State's sole and absolute discretion.

13.3 Washington Law. This Agreement shall be construed, interpreted, and enforced pursuant to the laws of the state of Washington and venue shall be in Thurston County. The terms of this

Agreement shall be given their ordinary meaning and shall not be construed in favor of or against either party hereto.

13.4 Time of the Essence. Time is of the essence in this Agreement. No waiver or consent to any breach or other default in the performance of any of the terms of this Agreement shall be deemed to constitute a waiver of any subsequent breach of the same or any other term or condition hereof. In the event time for performance falls on a weekend or legal holiday designated by the United States or Washington State, performance shall be deemed to be timely rendered if so rendered on the next business day.

13.5 Captions. The captions and section headings hereof are inserted for convenience purposes only and shall not be deemed to limit or expand the meaning of any section.

13.6 Invalidity. If any provisions of this Agreement shall be invalid, void or illegal, it shall in no way affect, impair or invalidate any of the other provisions hereof.

13.7 Counterparts. This Agreement may be signed in counterparts, any one of which shall be deemed an original.

13.8 Date of Agreement. The date of this Agreement shall be the date of the auction.

13.9 Good Faith. Both parties shall act reasonably and in good faith in order to consummate this transaction.

13.10 Authorization. Purchaser and the person(s) executing this Agreement on behalf of Purchaser represent and warrant that they are authorized to do so, that this is a legal, valid, and binding obligation on behalf of Purchaser, and that it is enforceable against Purchaser in accordance with its terms.

13.11 Default. In the event of default, neither party shall be liable for consequential damages.

13.12 Attorneys' Fees and Costs. If either party brings suit or submits to an alternative dispute process to interpret or enforce any provision of the agreement, the prevailing party shall be entitled to reasonable attorney fees, paralegal fees, accountant and other expert witness fees and all other fees, costs and expenses actually incurred in connection therewith, including those incurred on appeal, in addition to all other amounts provided by law, regardless of whether the matter proceeds to judgment or is resolved by the defaulting party curing the default.

Standard Agreement Approved
as to Form on June 1, 2004
by James Schwartz
Assistant Attorney General
State of Washington

Standard Agreement Revised
February 10, 2006
By Roger Braden, AAG

EXHIBIT A

KAPOWSIN LAND SALE

Legal Description

Government Lots 5 and 6 of Section 6, Township 17 North, Range 5 East, W.M., as granted to the State of Washington by Approved Clear List No. 10, recorded under AFN 8711050621, records of Pierce County, Washington; TOGETHER WITH a portion of said Section 6, described in that statutory warranty deed recorded March 26, 2010, under AFN 201003260546, described herein as follows.

Beginning at the southeast corner of Government Lot 6 in the Southwest Quarter of the Northwest Quarter of Section 6, Township 17 North, Range 5 East, W.M., in Pierce County, Washington.

Thence East 450 Feet;

Thence North 325 Feet;

Thence West 300 Feet;

Thence North 275 Feet;

Thence West 150 Feet to the East line of said Lot 6;

Thence South along said East line of Lot 6, 600 Feet to the Point of Beginning.

EXHIBIT B

KAPOWSIN LAND SALE

AFTER RECORDING RETURN TO:

Department of Natural Resources
Strategic Planning Office
PO Box 47014
Olympia, WA 98504-7014

QUITCLAIM DEED

Pierce County

Grantor: State of Washington, acting by and through the Department of Natural Resources.
Grantee: Purchaser
Abbreviated
Legal Desc: Government Lots 5 and 6 of Section 6, Township 17 North, Range 5 East, W.M., Pierce County, Washington

Tax Parcel #: 0517062000, 0517062016, & 0517062001

THE GRANTOR, STATE OF WASHINGTON, acting by and through the Department of Natural Resources, for and in consideration of the sum of _____ Dollars (\$_____), hereby conveys and quitclaims to _____, GRANTEE, all interest in the real property situated in Pierce County, Washington, and described in Exhibit A, attached hereto, which by this reference is made a part hereof.

The above-described lands are subject to that certain statutory reserved right as set forth in RCW 79.11.210:

The Grantor hereby expressly saves, excepts, and reserves out of the grant hereby made, unto itself and its successors and assigns forever, all oils, gases, coal, ores, minerals, and fossils of every name, kind, or description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, and fossils; and it also hereby expressly saves and reserves out of the grant hereby made, unto itself and its successors and assigns forever, the right to enter by itself or its agents, attorneys, and servants

upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, and working mines thereon, and taking out and removing therefrom all such oils, gases, coal, ores, minerals, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its successors and assigns, forever, the right by its or their agents, servants, and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, and railroads, sink such shafts, remove such soil, and to remain on said lands or any part thereof for the business of mining and to occupy as much of said lands as may be necessary or convenient for the successful prosecution of such mining business, hereby expressly reserving to itself and its successors and assigns, as aforesaid, generally, all rights and powers in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and the rights hereby expressly reserved.

No rights shall be exercised under the foregoing reservation, by the state or its successors or assigns, until provision has been made by the state or its successors or assigns, to pay to the owner of the land upon which the rights reserved herein to the state or its successors or assigns, are sought to be exercised, full payment for all damages sustained by said owner, by reason of entering upon said land: PROVIDED, That if said owner from any cause whatever refuses or neglects to settle said damages, then the state or its successors or assigns, or any applicant for a lease or contract from the state for the purpose of prospecting for or mining valuable minerals, or option contract, or lease, for mining coal, or lease for extracting petroleum or natural gas, shall have the right to institute such legal proceedings in the superior court of the county wherein the land is situate, as may be necessary to determine the damages which said owner of said land may suffer.

This Deed is executed and delivered pursuant to RCW 79.02.270.

WITNESS the Seal of the State of Washington, affixed this _____ day of _____, 2024.

GOVERNOR

ATTEST: _____
SECRETARY OF STATE

Approved as to form this _____ day
of _____, 2024.

Assistant Attorney General

State Deed No. (#)
State Record of Deeds, Volume (#), Page (#).
Transaction File No. 02-102130

EXHIBIT A TO QUITCLAIM DEED

Legal Descriptions of Kapowsin Property

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